HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

No. W.P. No. 550 of 2005 (SS)
Bhupal Singh

Vs
State of Uttaranchal

Approved for reporting.

~~Not approved for reporting~~

Date of decision 12.05.2005

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 550 of 2005 (SS)

Bhupal Singh ..... Petitioner

Versus

State of Uttaranchal ... Respondent

Mr. Lokpal Singh, Advocate for the petitioner
Standing Counsel for the respondents.

Hon. Rajesh Tandon, J.

By the present writ petition the petitioner has prayed for a writ of certiorari quashing the order dated 19.2.2005 passed by the respondent.

Briefly stated the petitioner is serving as Supervisor in the office of District Assistant Registrar, Co-operative Societies Haridwar Uttaranchal Transport Corporation. The petitioner has submitted that there is no complaint against him but without consultation of Chairman, District Administrative Committee/Administrator, District Co-operative Bank Ltd, Head Office Roorkee, the petitioner has been transferred. The transfer order is passed in mid educational session. The petitioner made a representation before the respondent but the respondent refused to accept the representation.

So far as the transfer order is concerned no interference can be made under Article 226 of the Constitution of India. An

order of transfer of an employee is a part of the service conditions an such order of transfer is not required to be interfered if the service rules prohibit such transfer or that the authorities, who issued the order, had not the competence to pass the order.

It has been held by the Apex Court in the case *Shilpi Bose and others vs. State of Bihar and others AIR 1991 SC 532 as under:*

"In our opinion, the courts should not interfere with a transfer order which are made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A Government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from the one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the Department. If the courts continue to interfere with day to day transfer orders issued by the Government and its subordinate authorities, there will be complete chaos in the Administration, which would not be conducive to public interest. The High Court over looked these aspects in interfering with the transfer orders."

It is well settled that the transfer is an exigency of service. However option for the petitioners to approach the higher authorities is available and the petitioners are at liberty to approach the higher authority.

Liberty is, therefore, given to the petitioner to make a fresh representation to the appropriate higher authority within 15 days after receipt of the certified copy of this order, who shall decide the same within a month thereafter. The order of transfer shall remain in abeyance for a period of one and a half month only, if the petitioner has already not been relieved as yet.

With the observations, made above the writ petition is disposed of. No order as to costs.

12.05.2005 Rajesh Tandon

Dhyani